IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7117 OF 2005

Shri Jaybharat Kamble .. Petitioner

Vs.

Shri N.J.Dumbre .. Respondent

Mr.D.B.Patil for the petitioner

CORAM : S.U.KAMDAR, J
DATED : 24TH NOVEMBER, 2005

P.C.:

1. The present petition is filed challenging the order dt.23.8.05 passed by the trial court on Ex.51 by which the application for recall of the order passed on the document i.e.Article A holding that the same is inadmissible in evidence and it was not properly stamped is rejected.

2. The learned counsel for the petitioners has contended that after holding that document is not properly stamped, the trial court ought not to have stopped but proceeded further by impounding the document and directing adjudication by the stamp

office in accordance with the provisions of the Bombay Stamp Act. In support of the aforesaid contention, he relied upon the judgment of the learned single judge in the case of M/s.Conwood Agencies P.Ltd.Vs.Namdeo Pandurang Panchal and Anr. reported in 2005(1) ALL MR 335. I have perused the judgment particularly para 7 thereof. The learned judge in the said judgment has only stated that if there is objection raised in respect of admissibility of any document then before proceeding further in the matter, the court is duty bound to determine the objection so raised. The court must further direct proceeding in the Stamp Act as has been contended by the petitioner in the present case. In the light of the fact that in the present case the learned judge already having held that the document is not admissible and is upholding the objection on the ground that the same is not appropriately stamped. In my view it is not necessary to proceed with the adjudication proceeding under the Stamp Act at this stage. In any event the order is purely interlocutory and procedural order and cannot be interfered with in writ jurisdiction under article 227 of the

constitution of India. Petitioner will be at liberty to raise objection, if any, in respect of the impugned order after final decree is passed. Petition dismissed accordingly. No order as to costs.

Certified copy expedited.